

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 L-03 SEC-01 EB-07 COME-00 TRSE-00 SSO-00

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O 221041Z SEP 76  
FM AMEMBASSY BERN  
TO SECSTATE WASHDC IMMEDIATE 3227

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PASS BOROWSKI IMMEDIATE

EO 11652: NA  
TAGS: CFED SZ  
SUBJ: SEC V. AIC

REF: A. STATE 224515

1. UPON RECEIPT REFTEL WE SENT A LETTER TO MR MUELLER WHICH  
CONTAINED VERBATIM, WITH TWO MINOR EXCEPTIONS, PARAS 2  
THROUGH 9 REFTEL. TODAY WE RECEIVED A PRELIMINARY ORAL  
RESPONSE, AS FOLLOWS:

A. GENERAL: MUELLER SAYS HE HAD NOT FULLY  
UNDERSTOOD THAT IT WOULD IN FACT BE NECESSARY FOR COOPERS-  
LYBRAND OF BOSTON TO DUPLICATE THE WORK DONE BY COOPERS-  
LYBRAND OF BASEL IN ORDER TO SATISFY THE U S COURT AND THE  
SEC. HE HAD ASSUMED THAT SINCE THE TWO FIRMS ARE AFFILIATED,  
ONE WOULD BE WILLING TO ACCEPT THE WORK AND WORD OF THE OTHER  
WITHOUT PARTICIPATING AT EACH AND EVERY STEP, WHICH, HE POINTS  
OUT, WOULD INCREASE THE COSTS OF THE AUDIT BY A SUBSTANTIAL  
AMOUNT. THE REASON THE BANKING COMMISSION INSISTED ON  
DESIGNATION OF THE SWISS FIRM WAS, BASICALLY, TO AVOID  
INFRINGING ON SWISS SOVEREIGNTY WHILE AT THE SAME TIME  
ASSURING, BY DESIGNATING THE SWISS AFFILIATE OF THE US  
FRIM DESIGNATED BY THE US JUDGEN, THAT THE AUDIT WOULD  
BE PERFORMED IN A MANNER CONSISTENT WITH US STANDARDS  
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AND ACCEPTABLE TO THE US AUDITING FIRM, THE US COURT

AND THE SEC. HE ENVISAGED CLOSE COLLABORATION  
BETWEEN THE US AND SWISS AFFILIATES, BUT AS STATED ABOVE,  
NOT TO THE EXTEND SET FORTH REFTEL.

B. PAYMENTS: IF THE US FIRM MUST DUPLICATE ALL THE WORK  
OF THE BASEL FIRM, THE FEES WOULD NO DOUBT EXCEED THE  
BANKING COMMISSION'S SCHEDULE OF TARIFFS FOR THE CONDUCT  
OF AUDITS. THOSE FORCED TO PAY A HIGHER FEE WOULD  
OBJECT. THE QUESTION OF PAYMENT CANNOT BE SETTLED UNTIL  
THE EXTENT OF THE PARTICIPATION OF COOPERS-LYBRAND OF  
BOSTON IS DECIDED AND THE TOTAL MAOUNT OF THEIR FEE IS KNOWN.

C. ACCESS TO INFORMATION: MUELLER BELIEVES THAT THE PROBLEM  
IS THAT STUEDER, OR RATHER THOSE PUTTING PRESSURE  
ON STUEDER, ARE CONVINCED THE SEC AND OTHER US GOVT  
AGENCIES ARE ON A FISHING EXPEDITION FOR NAMES NOT ALREADY  
AVAILABLE TO THE SEC. MUELLER REMEMBERS THAT HE WAS TOLD  
THE SEC ALREADY HAS THE NAMES OF NEARLY ALL THE INVESTORS.  
HE SAYS THAT IF THOSE NAMES ARE MADE AVAILABLE TO THE  
BASEL FIRM, ALL INFORMATION UNDER THOSE NAMES CAN BE  
GIVEN TO THE BOSTON FIRM.

2. MUELLER ASKS THAT THE SEC, IN CONSULTATION WITH  
COOPERS-LYBRAND OF BOSTON, CONSIDER WHETHER HIS  
SUGGESTION AS TO HOW TO OVERCOME THE PROBLEM OF ACCESS  
COULD BE ACCEPTED. HE ALSO ASKS THAT THE SEC RECONSIDER  
WHETHER PARTICIPATION BY COOPERS-LYBRAND BOSTON AND  
THE PHYSICAL PRESENCE OF THEIR REPRESENTATIVES AT EVERY  
STEP OF THE AUDIT PROCESS IS ABSOLUTELY NECESSARY IN  
ORDER TO SATISFY THE SEC AND THE US COURT AS TO THE  
ACCURACY AND COMPLETENESS OF THE AUDIT.  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 22 SEP 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** saccheem  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976BERN04356  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760357-0871  
**From:** BERN  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760934/aaaabcsn.tel  
**Line Count:** 93  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EUR  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 76 STATE 224515  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** saccheem  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 12 MAY 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <12 MAY 2004 by greeneet>; APPROVED <09 SEP 2004 by saccheem>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** SEC V. AIC  
**TAGS:** CFED, SZ  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006